Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC, 20554

In the Matter of	)	
Creation of a Low	)	MB Docket No. 99-25
Power Radio	)	
Service	)	

My name is Steven L. White, Director of Triangle Access Broadcasting, Inc., a construction permit grantee for facility ID 133917, WVDJ-LP, in Raleigh, NC. I support any actions the Federal Communications Commission can take to expand and support community oriented programming as encouraged through the Low Power FM radio service. My comments related to MB Docket No. 99-25 are included below.

In its "Second Order on Reconsideration and Further Notice of Proposed Rulemaking," the Commission seeks comments on matters which will have a substantial effect on the LPFM service and the ability of these low power stations to serve their communities.

First, the Commission seeks comment regarding assignment and transfer of control of station authorization. I believe that the Commission was wise to address potential license speculation when adopting its strict rules upon the creation of the low power FM service. However, I also agree that the rules as written leave little flexibility in the natural evolution and routine changes of governing boards. Many groups have the potential to change governance one hundred percent, suddenly, through annual elections. I believe the next generation of rules should accommodate this possibility.

In situations where the board does change substantially and suddenly through elections, I believe that a substantial factor is that, while the board changes, the organizational membership remains for the most part unchanged. In these scenarios, it is the boards that answer to the members, thus the members are really in control of the authorization. Perhaps allowing substantial changes in the board when the membership of the organization does not change more than a certain percentage within a certain window surrounding the board change (such as 33% within ninety days of the board change) would address this satisfactorily. Continuity of the organization should be the determining factor, not solely continuity of the board, in determining control.

Further, consent by the membership should not be the sole additional factor accompanying a sudden board change, as this does not address an involuntary "coup" of an organization by a larger organization or renegade subset of the membership. Either scenario effectively ends the existence of the licensed organization through dominance in numbers or forcing existing members to leave, before consent is adopted. With many small organizations operating LPFMs, I can foresee attempts at seizing control of an organization because of its LPFM license.

Regarding assignment of authorization to a new entity, I believe this is only appropriate when the former organization voluntarily and substantially becomes part of the new organization, both in membership and in assets, and ceases to exist as its own entity, such as in mergers. Note that a voluntary takeover is considered a merger in this case. All other assignments should remain prohibited to minimize license speculation and to give fair opportunity for all seeking licenses.

I believe multiple ownership of LPFMs should remain prohibited. If there is not sufficient community interest in operating an LPFM, then the opportunity should remain for a future date. It is my opinion that obtaining the "fullest use of LPFM spectrum" should be balanced with maintaining opportunities for local programming. In most areas where LPFMs could be authorized, translators could also be utilized to fill unused spectrum until such time as a local entity expresses interest in serving its local community. In evaluating the Commission's statement in its "Reconsideration Order" in which it concluded "that [the Commission] struck an appropriate balance between the interests of local groups and the interest in insuring that the service is used fully," it is my opinion that when channels remain available after filing windows have passed that the LPFM service is indeed fully utilized. Unutilized _spectrum_, however, should be made available to other permissible services in this case.

With regards to renewal of time-share arrangements, I agree that the public interest would be better served by permitting the renewal of viable time-share arrangements. I would add that pledges of operating time and local program origination used in determining points under the initial point system should be evaluated at the time of renewal, and groups that have not fulfilled their pledges should be removed from the license.

As the Commission notes, involuntary time-sharing licensees may wish to modify their time-sharing arrangements prior to seeking renewal. I do not believe it would be in the public interest to allow licensees to pool points at renewal, forcing other licensees off-air, when other licensees have met their obligations under the point system. Likewise, licensees that desire to merge under more flexible transferability rules should not lose time in a time-share arrangement by being treated as a new single entity. Until such time as all participants can agree on a time-share arrangement, time-share renewals should follow the model of the original license, adjusted for mergers and surrenders of licenses. Under my proposal, if groups A, B, C, and D were entered into an involuntary time-share agreements, each receiving 2-year authorizations over the 8-year license period, and groups A and B merged while group C dissolved, then the time-share at renewal would continue with group AB awarded 2/3 of the 8-year term and group D awarded 1/3 of the term.

Considering extending the construction period from 18 months to three years, I applaud the Commission's recognition that, although LPFMs are smaller and should not require the same time for physical constructions as full-power counterparts, times required for permitting, purchasing, and receiving authorizations for minor modifications from the Commission do not scale with size. I fully support this proposal.

Since it is so closely related, I will go ahead and address LPFM protection from subsequently authorized full service FM stations. While I believe LPFM is justified and important, a landscape of "all LPFMs" would result in overall fewer choices for most FM radio listeners due to interference in overlapping below-grade signal areas and absence of signal due to many areas lost trying to meet spacing requirements. Certainly, filling in from largest to smallest is an efficient methodology to fill spectrum. Thus, there is strong value to the full power FM. Many LPFM proponents aren't so much against large stations as they are against the multiple ownership and concentrated influence owners can develop when controlling the Commission's limits in a community. Also, full power FMs will be the leaders in furthering new technologies such as digital broadcasting, be it Ibiquity's IBOC or another, better alternative in the future. Thus my comments are not "against big broadcasters." Rather they are in support of the investment of the broadcaster, a factor that will also weigh important in my

consideration later regarding translators and LPFM. I would propose that once authorized, LPFMs should be protected at least through their first 8-year license term. Beyond such time, full power FM stations could encroach and force an LPFM off its channel. However, an affected LPFM should be allowed to make a major modification (even if outside a filing window) such that, meeting all eligibility requirements for filing for an original construction permit, the LPFM could potentially continue operation on a different channel whenever it would otherwise be forced off-air. As a clarification, the LPFM should not preclude a new or modified full power FM within the initial license term if the full power applicant identifies an appropriate major change for the LPFM.

Further, I support the Commissions proposal for permitting applicants that submit a time-sharing proposal to file a minor amendment proposing to relocate the transmitter to a central location, notwithstanding the site relocation limits set forth in Section 73.871. Rules regarding LPFMs (and all broadcast services) should be a flexible as possible, insofar as they do not unduly inconvenience or burden the Commission. I do not believe that this proposal does either.

Whether LPFMs should be given priority to translators is an extremely important topic where balance must be struck between the goals of the LPFM and translator services. Generally, I support a "first-come, first-served" co-equal approach in this matter, primarily because the investment to construct a station deserves, at a minimum, the opportunity to operate through its entire license period. Renewal expectancy adds further justification for either investment. However, I strongly favor opportunity for local programming. As such, I favor priority status of all LPFMs over translators when the translator is a) not licensed to a local entity and b) cannot be fed by over-the-air reception. It is this class of translators that I believe is least able to identify and serve community needs.

Recognizing the investments translator owners have made in their facilities, I propose that existing, authorized translators that are considered secondary to LPFMs under the above conditions to be grandfathered as co-equal to LPFMs for eight years. Since it is reasonable to assume that translators whose original construction permits were granted from the 2003 filing window have begun construction, they should be included in any grandfathering. As an LPFM, I would request the same treatment if on the other side. Ungranted translator applications should be held and considered after the next LPFM (presumably LP-10) filing window.

To comment on the Commission's statement that "Prometheus’s contention that every new translator 'takes the place' of a potential LPFM station is incorrect" in its discussion of the impact of translator applications on the potential licensing of LPFM stations, while Prometheus's contention may be "technically" incorrect, is it "substantively" correct when considering LP-10 opportunities.

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will be the leaders in furthering new technologies such as digital broadcasting, be it Ibiquity's IBOC or another, better alternative in the future.

Thus my comments are not "against big broadcasters." Rather they are in support of the investment of the broadcaster, the same as when discussing translators and LPFM. I would propose that once authorized, LPFMs should be protected at least through their first 8-year license term. Beyond such time, full power FM stations could encroach and force an LPFM off its channel. However, an affected LPFM should be allowed to make a major modification (even if outside a filing window) such that, meeting all eligibility requirements for filing for an original construction permit, the LPFM could continue operation on a different channel when it would otherwise be forced off-air. As a clarification, the LPFM should not preclude a new or modified full power FM within the initial license term if the full power applicant identifies an appropriate major change for the LPFM.

While many LPFM advocates desire to see contour overlap interference protection approaches, I do not agree _at this time_. First, the effects of making LPFMs primary to certain classes of translator should be observed. A contour overlap interference approach is both a burden to the Commission for processing and a greater barrier to many LPFM applicants. In order to adopt a contour overlap interference approach, the simple mileage approach partly responsible for leading to many current LPFM licensees would have to be abandoned. I believe these LPFM advocates are premature in their request.

Respectfully Submitted,
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